

JANUARY 2, 1807.

Read the first and second time, and committed to a committee of the whole House, on Tuesday next.

A Bill,

For the encouragement of learning, and for the promotion of the useful arts.



1 Sec. 1. *BE it enacted by the senate and house of representatives of*
2 *the United States of America, in congress assembled,* That when
3 any person or persons, being a citizen or citizens of the United
4 States, or having resided therein for two continued years, immedi-
5 ately before his or their application for a patent, as herein after
6 mentioned, shall be desirous of obtaining a patent for any inven-
7 tion, discovery or improvement, by him or them alleged to be
8 made, of any new principle, or new application of a known principle,
9 in any new or useful art, machine, manufacture, or composition of
10 matter, he or they shall pay to the treasurer of the United States,
11 the sum of dollars; for the payment of which dupli-

cate receipts shall be given, one of which the applicant or applicants for a patent, shall file in the office of the secretary of state, together with a specification by him or them subscribed, which shall refer neither to the drawings nor model herein after mentioned, and which shall contain an explanation of the manner of making, using, applying and compounding the said invention, discovery or improvement, in such full, clear and exact terms, as to distinguish the same from all other things before known, and to enable any person skilled in the art, or science, of which it is a branch, or with which it is most nearly connected, to make, use, apply and compound the same, and in case of any machine he shall fully explain the principle and the several modes in which he has contemplated the application of that principle or character, by which it may be distinguished from other inventions accompanying the said specification, with drawings and written references thereto explanatory of the same, where the nature of the case admits of drawings. And the said applicant or applicants shall moreover make oath or affirmation, that he or they are citizens of the United States, or as the case may be, have resided therein for two continued years immediately before; that he or they verily believe themselves, the first and true inventors or discoverers, of the matters contained in the specification, on which shall be endorsed a certificate of the said oath, subscribed by the applicant or applicants, which shall be taken before any person legally qualified to administer oaths, of which qualification, if the person administering the oath reside without the district of Columbia, due proof shall be made by the certificate

38 under seal of a notary public, or clerk of a county court within the
 39 United States, and in case the secretary of state shall deem it re-
 40 quisite, the said applicant or applicants shall moreover lodge in his
 41 office an operative or other substantial model, at the discretion of
 42 the said secretary, of his or their invention, discovery or improve-
 43 ment.

1 Sec. 2. *And be it further enacted,* That upon fulfilling the requi-
 2 sites aforesaid, letters patent shall be issued to the said applicant
 3 or applicants, his, her or their heirs and assigns, granting to him or
 4 them, their heirs and assigns, for any term not exceeding seven
 5 years, at the discretion of the secretary of state, the full and ex-
 6 clusive right and liberty of making, using, applying and compound-
 7 ing the said invention, discovery or improvement, and of vending to
 8 others to be used, the said invention, discovery or improvement,
 9 and the specification shall be annexed to and form a part of the
 10 said letters patent.

1 Sec. 3. *And be it further enacted,* That every assignment of a
 2 patent right, or of any part thereof, shall be made in writing under
 3 the hand and seal of the assignor and attested by two witnesses,
 4 and before it shall avail the assignee, it shall be recorded in the of-
 5 fice of the secretary of state, who shall cause the time of its being
 6 admitted to record to be noted: *Provided,* That no such assignment
 7 shall be admitted to record as aforesaid, until it shall have been ac-
 8 knowledged before a judge of some court of record of the United
 9 States, or of an individual state, and in case the said judge shall
 10 reside without the territory of columbia, proof shall be made of his

11 certificate of the acknowledgment under the hand and official seal of a
12 notary public, or clerk of a county court within the United States.

1 *Sec. 4. And be it further enacted,* That when any person hath
2 made or shall have made any such invention, discovery or im-
3 provement, on account of which a patent might issue by virtue of
4 this act, and has or shall die before the same hath been granted,
5 the right of applying for and obtaining such patent shall devolve
6 upon the executors or administrators of such person, in trust for
7 the heirs at law of the deceased, in case he shall have died intes-
8 tate; but if otherwise, then in trust for his devisees, in as full and
9 ample manner, and under the same conditions, limitations and re-
10 strictions as the same was held or might have been claimed or en-
11 joyed by such person in his or her life time. And when applica-
12 tion for a patent shall be made by such executors or administrators,
13 the oath or affirmation herein before directed, shall be so varied as
14 to be applicable to them, and as the secretary of state shall approve.

1 *Sec. 5. Provided,* That any person who shall have discovered
2 an improvement in the principle or new application of a principle of
3 any machine, or in the process of any composition of matter which
4 shall have been patented, and shall have obtained a patent for such
5 improvement, he shall not be at liberty to make, use or vend the ori-
6 ginal invention or discovery, nor shall the first inventor or disco-
7 verer, be at liberty to use the improvement. And it is hereby en-
8 acted and declared, That simply changing the form or the propor-
9 tions of any machine or composition of matter, in any degree, shall
10 not be deemed a discovery, invention or improvement.

1 **Sec. 6. *And be it further enacted,*** That upon oath or affirmation
 2 being made, before the judge of the district court, where the paten-
 3 tee, his executors, administrators or assigns reside, that any patent,
 4 which shall be issued in pursuance of this act, was obtained sur-
 5 reptitiously or upon false suggestion, and motion made to the said
 6 court within three years after issuing the said patent, but not after-
 7 wards, unless where a patent shall have been previously issued for
 8 the same thing in this or some other country, it shall and may be
 9 lawful for the judge of the said district court, if the matter alleged-
 10 shall appear to him to be sufficient, to grant a rule, that the
 11 patentee or persons claiming under him to be named in the moti-
 12 on, shew cause why process should not issue against him or them
 13 to repeal such patent, and if sufficient cause shall not be shewn
 14 to the contrary, the rule shall be made absolute, and thereupon
 15 the said judge shall order process to be issued against such pa-
 16 tentee, or those claiming under him, with costs of suit; and in case
 17 no sufficient cause shall be shewn to the contrary, or if it shall
 18 appear that the patentee was not the true inventor or discoverer,
 19 judgment shall be rendered by such court for the repeal of such
 20 patent; and if the party, at whose complaint the process issued,
 21 shall have judgment given against him, he shall pay all such costs
 22 as the defendant shall be put to in defending the suit, to be taxed
 23 by the court, and recovered in due course of law.

1 **Sec. 7. *And be it further enacted,*** That where any patent shall
 2 be, or shall have been granted pursuant to this or any former act of

3 congress, and any person without the consent of the patentee, or
4 of those claiming under him, first obtained in writing, shall make,
5 devise, use, or sell the thing whereof the exclusive right is secur-
6 ed to the said patentee by such patent, such person so offending,
7 shall forfeit and pay to the party injured, a sum equal to three
8 times the actual damage sustained, from or by reason of such of-
9 fence, but which shall in no case be less than three times the price
10 established by the patentee at which he has publicly offered to
11 sell or license, or has usually sold or licensed the use of his inven-
12 tion to others, which sum shall and may be recovered by action on
13 the case, founded on this or any prior act, in the circuit court of
14 the United States having jurisdiction thereof: *Provided*, that if
15 judgment be given for the defendant in any suit commenced for
16 such offence, the court may at their discretion award triple costs
17 against the plaintiff: *Provided also*, that the defendant in such ac-
18 tion shall be permitted to plead the general issue, and give this act
19 and any special matter, of which notice in writing may have been
20 given to the plaintiff or his attorney, thirty days before trial, in evi-
21 dence, tending to prove that the specification filed by the plaintiff,
22 does not contain the whole truth relative to his discovery, or that
23 it contains more than is necessary to produce the described effect,
24 which concealment or addition shall fully appear to have been
25 made for the purpose of deceiving the public, or the thing thus se-
26 cured by patent, was not originally discovered by the patentee,
27 but had been in use, or had been described in some public work,
28 anterior to the supposed discovery of the patentee, or that he had

29 surreptitiously obtained a patent for the discovery of another per-
 30 son; in either of which cases judgment shall be rendered for the
 31 defendant, with costs, and the patent shall be declared void.

1 Sec. 8. *And be it further enacted*, That the secretary of state
 2 may, with the concurrence of the secretaries of the treasury, war
 3 or navy departments, or any two of them, refuse to issue a patent
 4 to any person claiming the same in virtue of this act.

1 Sec. 9. *And be it further enacted*, That in case of interfering ap-
 2 plications, the same shall be submitted to the arbitration of three
 3 persons, one of whom shall be chosen by each of the applicants,
 4 and the third person shall be appointed by the secretary of state,
 5 and the decision or award of such arbitrators, delivered to the se-
 6 cretary of state in writing, and subscribed by them, or any two of
 7 them, shall be final, as far as respects the granting of the patent;
 8 and if either of the applicants shall refuse or fail to choose an ar-
 9 bitrator, the patent shall issue to the opposite party. And where
 10 there shall be more than two interfering applications, and the par-
 11 ties applying shall not all unite in appointing three arbitrators, it
 12 shall be in the power of the secretary of state to appoint three ar-
 13 bitrators for the purpose.

1 Sec. 10. *And be it further enacted*, That any inventor or dis-
 2 coverer, his executors, administrators or assigns, who may obtain
 3 letters patent under this act, may renew the same, not only for his
 4 original invention as already specified, but for all the improvements
 5 that he may have discovered and made thereon, by applying at any
 6 time within months before the expiration of his first

7 term of seven years for a second term of seven years to commence
8 on the expiration of the said first term, on paying into the treasury
9 of the United States dollars, and filing new spe-
10 cifications and explanations of his invention, and all the improve-
11 ments which he or they may have made thereon, and complying
12 with all the requisitions of this act necessary for obtaining a patent.
13 And in like manner and on like conditions, he or they may renew
14 the same any time within months before the expira-
15 tion of the second term of seven years, for a third term, on paying
16 into the treasury of the United States dollars: and
17 in like manner and under like conditions he or they may renew the
18 same any time within months before the expiration
19 of the third term of seven years, for a fourth term of seven years,
20 on paying into the treasury of the United States
21 dollars: *Provided*, That public notice be given by the patentee, his
22 heirs, executors, administrators or assigns, in
23 newspapers of the United States, for months,
24 of his or their intention to renew the said letters patent: *And*
25 *provided*, That no person who may have obtained the consent of
26 the patentee, his heirs, executors, administrators or assigns, in
27 writing, for using his invention, shall be compelled to renew the
28 same, nor shall ever be subjected to any damages for using the same
29 in the state of improvement that it was at the time the license was
30 granted.

1 Sec. 11. *And be it further enacted*, That any inventor, his heirs,
2 executors, administrators or assigns, whose patents were obtained

3 under the act entitled "an act to promote the progress of the useful
 4 arts," may have expired, he or they may renew the same for two
 5 terms of seven years each, under the conditions and restrictions of
 6 the 10th section of this act: *Provided*, application for the first re-
 7 newal be made any time within months after the
 8 passing of this act, on giving days public notice of
 9 such intention and renewal in news-
 10 papers in the United States.

1 Sec. 12. *And be it further enacted*, That any inventor, his heirs,
 2 executors, administrators or assigns, whose patents have not yet ex-
 3 pired, may renew the same for two terms of seven years, under the
 4 restrictions, limitations and conditions of the 10th section of this act.

1 Sec. 13. *And be it further enacted*, That for every copy,
 2 which may be applied for at the office of the department of state,
 3 of any patent, or any paper respecting any patent, and for every
 4 record of any assignment of a patent right, there shall be paid by
 5 the applicant, at the rate of twenty cents for every hundred words,
 6 and for every copy of a drawing, a sum not less than two, nor more
 7 than ten dollars, at the discretion of the secretary of state; the said
 8 fees to be accounted for, at the treasury, half yearly.

1 Sec. 14. *And be it further enacted*, That the author and authors
 2 of any map, chart, or book, being a citizen or citizens of the United
 3 States, or resident therein at the time of his or their composing the
 4 same, and any person or persons who shall, within the United States,
 5 invent and design, engrave, etch or work, or from his or their own

6 work or inventions, shall cause to be designed, etched, engraved or
 7 worked, any historical, or other print or prints, and his and their
 8 heirs and assigns, shall have the sole right and liberty of printing,
 9 re-printing, publishing and vending such map, chart, book or print,
 10 for the term of fourteen years from the time of depositing the title
 11 of the same in the office of the clerk of the district court, as here-
 12 in after mentioned ; and if, at the expiration of the said term of
 13 fourteen years, the author or authors, or any of them, of such map,
 14 chart, book or print, be living, and a citizen or citizens of the United
 15 States, the same exclusive right shall be continued to him or them,
 16 his or their heirs and assigns, for the further term of fourteen
 17 years: *Provided*, That he or they shall cause the title thereof
 18 to be a second time recorded, and the entry printed, or impressed
 19 in the same manner as herein after directed, and that within six
 20 months after the expiration of the first term of fourteen years
 21 aforesaid: *And provided*, That any contract for the sale of the copy
 22 right for the second term of fourteen years, or any part of the
 23 same, made or entered into before the expiration of the first, shall
 24 be utterly void.

1 *Sec. 15. And be it further enacted*, That if any person or persons,
 2 other than the author or authors, shall, from and after the recording
 3 the title of any map, chart, book, or print, and printing the record
 4 thereof as aforesaid, or impressing a map, chart, book, or print, as
 5 aforesaid, print, re-print, etch, engrave or work, publish, import, or
 6 cause to be printed, re-printed, etched, engraved or worked, pub-
 7 lished, or imported from any foreign state or kingdom, any copy or

8 copies of such map, chart, book, or print, or any substantive or ma-
 9 terial part of the same, without the consent of the authors or pro-
 10 prietors thereof, first had and obtained in writing, signed in the
 11 presence of at least two credible witnesses, or knowing the same
 12 to be so unlawfully printed, re-printed, or imported, shall publish.
 13 sell or expose to sale, or cause to be published, sold, or exposed to
 14 sale, any copy of such map, chart, book, or print, or substantive or
 15 material part of the same, without such consent in writing, first had
 16 and obtained, as aforesaid, then such offender or offenders, shall
 17 forfeit the plate or plates, if the offence be committed by engraving,
 18 etching, or working a map, chart, or print, and all and every copy
 19 and copies of such map, chart, book, or print, and all and every sheet
 20 and sheets, being part of the same, or any of them, found in his or
 21 their possession, to the authors and proprietors of such map,
 22 chart, book, or print; and every such offender shall also forfeit and
 23 pay three times the value of every such copy or copies, sheet and
 24 sheets, so found in his or their possession, contrary to the true intent
 25 and meaning of this act, the one moiety thereof to the authors or
 26 proprietors of such map, chart, book, or print, and the other moiety
 27 thereof, to and for the use of the United States, to be recovered by
 28 action of debt, in any court of the United States, in which the same
 29 is cognizable.

1 Sec. 16. *And be it further enacted*, That no person shall be en-
 2 titled to the benefit of this act, unless he shall deposit, before pub-
 3 lication, a copy of the title of such map, chart, book or print, in the
 4 office of the clerk of the court of the United States for the district

5 in which the authors or proprietors or some one of them shall re-
6 side; and the clerk of the said court is hereby directed and requir-
7 ed to record the same forthwith in a book to be kept by him for
8 that purpose, in the form following (giving a copy thereof to the
9 said authors or proprietors) under the seal of the court when re-
10 quired: "District of _____ to wit: Be it remembered, that
11 on the _____ day of _____ in the _____ year
12 of the independence of the United States, A. B. of the said dis-
13 trict (or otherwise if there be more than one person) hath depo-
14 sited in this office the title of a map, chart, book or print (as the
15 case may be) the right whereof he claims as author, or proprietor
16 (as the case may be) in the words following, (here insert the title)
17 in conformity to an act of congress, entitled "an act
18 _____ C. D. clerk
19 of the district court of _____
20 _____ for which the said clerk shall be entitled to receive
21 the sum of sixty cents from the person applying for the same, and
22 for every copy of the said record under seal, sixty cents: *Pro-*
23 *vided also*, That any person so claiming the benefit of this act,
24 shall cause a copy of the said record, if relating to a book, to be
25 printed at full length on one of the two pages succeeding the title
26 page thereof; or if to a map, chart or print, he shall cause the
27 following words to be impressed on the face of every copy thereof,
28 "Entered according to act of congress the _____ day of _____
29 (here insert the date when the same was deposited in the clerk's
30 office) by A. B. of the state of _____ (here insert the name

31 of the author or proprietor, and the state in which he resides) and
 32 such author or proprietor shall, moreover, within six months after
 33 date of the said record, deliver or cause to be delivered to the se-
 34 cretary of state, a copy of the said map, chart, book, or print, to
 35 be preserved in his office, and a minute of the date of the receipt
 36 of the said map, chart, book, or print, shall be entered and pre-
 37 served at the said office, and a certified copy of the said minute,
 38 under the seal of the department of state, shall be received as evi-
 39 dence in every court of justice; for which certified copy, when
 40 demanded, shall be paid for the use of the United States, the
 41 sum of one dollar.

1 Sec. 17. *And be it further enacted*, That every assignment of a
 2 copy right, shall be recorded in the office of the clerk of the court
 3 wherein the title page shall have been recorded, as herein before
 4 directed, for which assignment, the said clerk shall be entitled to
 5 receive, from the party applying, at the rate of twenty cents for every
 6 hundred words of the same.

1 Sec. 18. *And be it further enacted*, That if any person or persons,
 2 from and after the passing of this act, shall print or publish any map,
 3 chart, book or books, print or prints, who have not legally acquired
 4 the copy right of such map, chart, book or books, print or prints,
 5 and shall, contrary to the true intent and meaning of this act, insert
 6 therein, or impress thereon, that the same has been entered according
 7 to act of Congress, or words purporting the same, or purporting that
 8 the copy right thereof has been acquired; every person so offending
 9 shall forfeit and pay the sum of one hundred dollars, one moiety

10 thereof to the person who shall sue for the same, and the other
 11 moiety thereof to and for the use of the United States, to be recov-
 12 ered by action of debt, in any court of record of the United States,
 13 having cognizance thereof: *Provided always*, That in every case for
 14 forfeitures therein before given, the action be commenced within
 15 two years from the time the cause of action may have arisen.

1 Sec. 19. *And be it further enacted*, That any person or persons
 2 who shall print, engrave, etch, work or publish any manuscript,
 3 map, chart, design or drawing, not before published, by printing,
 4 engraving, etching or working, and of which the copy right might
 5 be secured under this act, without the consent or approbation of the
 6 author or proprietor thereof, first had and obtained in writing, in the
 7 presence of at least two credible witnesses, shall be liable to suf-
 8 fer and pay to the said author or proprietor, all damages occasioned
 9 by such injury, to be recovered by a special action on the case,
 10 founded on this act, in any court having cognizance thereof.

1 Sec. 20. *And be it further enacted*, That the requisites hereby
 2 prescribed for securing the copy right of maps, charts, books and
 3 prints, shall be performed and completed with respect to every part
 4 of any map, chart, book, or print, which may be separately and ori-
 5 ginally published : *Provided*, That the copy right of any number of
 6 volumes of a literary work, and any series or collection of maps,
 7 charts or prints, to which the same title page applies, and which
 8 shall be published together, shall be considered as secured under
 9 this act, though no more than one title page be recorded, and
 10 printed, or impressed as herein before provided.

10 “ An act for the encouragement of learning by securing the copies
11 of maps, charts and books, to the authors and proprietors of such
12 copies, during the times therein mentioned ;”

13 “ An act supplementary to an act entitled ‘ An act for the en-
14 couragement of learning, by securing the copies of maps, charts and
15 books to the authors and proprietors of such copies during the time
16 therein mentioned,’ and extending the benefits thereof to the arts
17 of designing, engraving and etching historical and other prints ;”
18 shall be repealed, and cease to operate : *Provided*, That their repeal
19 shall not be construed to revive any act or acts by them repealed :
20 *And provided*, That no action or right accruing under the before
21 recited acts, shall be invalidated hereby : But all patentees, and the
22 authors and proprietors of maps, charts, books and prints, who shall
23 have secured the exclusive copy right to the same, under the said
24 acts, or any of them, before the
25 their heirs and assigns, shall be considered within the purview of
26 this act, in respect to any violation of their rights committed there-
27 after.